

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

DONALD JOE BARBER, <i>suae</i>)	
<i>potestate esse</i> and BRENDA)	
GAIL BARBER,)	
)	
Plaintiffs,)	
)	
v.)	2:06-cv-04821-JEO
)	
INTERNAL REVENUE SERVICE,)	
LAWRENCE BARRON, CRST)	
INTERNATIONAL, INC., JIM BARNES,)	
MONICA LUSE, and TARA WELLS,)	
)	
Defendants.)	

MEMORANDUM OPINION

The plaintiffs, Donald Joe and Brenda Gail Barber, initiated this action by filing a *pro se* complaint and a request to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.¹ (Doc. 1 & 2).² They subsequently filed an amended complaint. (Doc. 8). The magistrate judge assigned

¹28 U.S.C. § 1915 provides in pertinent part:

(a)(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets . . . [and] that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(e)(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines –

. . .

(B) the action or appeal –

(i) is frivolous or malicious; [or]

(ii) fails to state a claim on which relief may be granted. . . .

28 U.S.C. § 1915 (2006).

²References herein to “Doc. __” are to the document numbers assigned by the Clerk of the Court and located at the top of each filing. The plaintiffs’ also filed a motion for declarative and injunctive relief that remains pending at this juncture. (Doc. 3).

this matter construed the amended complaint liberally,³ but still found that it failed to state a cognizable claim. Accordingly, he found that the plaintiffs' motion to proceed *in forma pauperis* was due to be denied. He therefore afforded the plaintiffs an opportunity to pay the requisite filing fee to proceed in this action.

The filing fee was to be paid by September 19, 2007. The fee has not been paid. Accordingly, this matter is due to be dismissed. An appropriate order will be entered.

DONE, this the 25th day of September, 2007.


KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE

³See *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S. Ct. 594, 595-96, 30 L. Ed. 2d 652 (1972).